

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

HANS A. QUAACK, ATTILIO PO
and KARL LEIBINGER, on behalf of
themselves and those similarly situated,

Plaintiffs,

v.

DEXIA BANK BELGIUM (formerly known as
ARTESIA BANKING
CORP., SA),

Defendants.

Civil Action No.: 03-11566 (PBS)

STONINGTON PARTNERS, INC., a Delaware
Corporation, STONINGTON CAPITAL
APPRECIATION 1994 FUND L.P., a Delaware
Partnership and STONINGTON HOLDINGS,
L.L.C., a Delaware limited liability company,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM
(formerly known as ARTESIA BANKING
CORP., SA),

Defendants.

Civil Action No.: 04-10411 (PBS)

GARY B. FILLER and LAWRENCE
PERLMAN, Trustees of the TRA Rights Trust,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM
(formerly known as ARTESIA BANKING
CORP., SA),

Defendants.

Civil Action No.: 04-10477 (PBS)

JANET BAKER and JAMES BAKER,
JKBAKER LLC and JMBAKER LLC,

Plaintiffs,

v.

DEXIA, S.A. and DEXIA BANK BELGIUM
(formerly known as ARTESIA BANKING
CORP., SA),

Defendants.

Civil Action No.: 04-10501 (PBS)

**RESPONSE TO MOTION FOR ISSUANCE OF REQUEST FOR
INTERNATIONAL JUDICIAL ASSISTANCE (LETTERS ROGATORY)**

Defendant Dexia Bank Belgium ("Dexia") responds to Plaintiffs' Motion for Issuance of Request for International Judicial Assistance (Letters Rogatory) as follows:

1. Plaintiffs are seeking the issuance of letters rogatory for the depositions of six witnesses located in Belgium, all of whom are former employees of Dexia's predecessor, Artesia Banking Corporation. Pursuant to Rule 28(b) of the Federal Rules of Civil Procedure, this Court is authorized to issue letters of request (*i.e.*, letters rogatory) "on terms that are just and appropriate."

2. Although Plaintiffs have had the right to seek testimony via letters rogatory since April 2005, this motion was filed on June 16, 2006, the last day of the merits discovery period. The letters rogatory proposed by Plaintiffs attach a total of 190 pages of written questions for the six named witness, along with more than 140 exhibits. These written questions were clearly the product of many weeks of effort by Plaintiffs.

3. Plaintiffs did not give Dexia any advance notice that they would be seeking testimony via letters rogatory.¹ To the contrary, Plaintiffs have previously insisted that seeking testimony from witnesses in Belgium via letters rogatory would be unduly burdensome, time consuming and probably futile.

4. Because Plaintiffs did not provide any advance notice of their intent to seek testimony via letters rogatory, Dexia has not had the opportunity to prepare its own written questions for the relevant witnesses. It would be fundamentally unfair for letters rogatory to issue from this Court with only one-sided questions from Plaintiffs. Indeed, the federal regulations dealing with letters rogatory expressly contemplate direct examination by the requesting party, followed by cross-examination by other parties. *See* 22 C.F.R. §§ 92.57 & 92.58. For this reason, in the event the Court allows Plaintiffs' motion and issues letters rogatory, Dexia requests that it be allowed 30 days to prepare its own written questions for each witness, to be appended to the letters rogatory before delivery to any Belgian authority.

Dated: June 30, 2006

Respectfully submitted,

MINTZ LEVIN COHN FERRIS
GLOVSKY & POPEO

By: /s/ Breton Leone-Quick
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¹ Dexia first learned of the motion on the morning of the day it was filed, when counsel for Plaintiffs left a voicemail for counsel for Dexia.

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CERTIFICATE OF SERVICE

I hereby certify that this document will be filed through the ECF system, which filing will constitute service of the document upon all registered ECF users as identified on the Notice of Electronic Filing (NEF). A paper copy of this document has been mailed in accordance with Fed. R. Civ. P. 5(b) to all those case participants not identified on the NEF as electronic recipients.

/s/ Breton Leone-Quick

Dated: June 30, 2006